



# The Scottish Parliament

## ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

### AGENDA

**7<sup>th</sup> Meeting, 2003 (Session 2)**

**Wednesday 1 October 2003**

The Committee will meet at 10.30 am in Committee Room 2.

**1. National Waste Plan inquiry:** The Committee will take evidence from—

Matthew Farrow, Head of Policy, CBI Scotland

Andy Willox, Scottish Policy Convener, Federation of Small Businesses Scotland

Angus Macpherson, Treasurer, Recycling Advisory Group Scotland

Dr Nicki Souter, Campaign Manager, Waste Aware Scotland

Dr Michael Milner, Senior Business Environmental Adviser, Business Environmental Partnership.

**2. Subordinate legislation:** The Committee will consider the following negative instrument—

the Animal By-Products (Scotland) Regulations 2003, (SSI 2003/411).

**Tracey Hawe**

Clerk to the Committee

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**The following papers are attached or are relevant to this meeting:**

<p><u>Agenda Item 1</u></p> <p>Note from the Clerk (<i>for members only</i>)</p> <p>Submission from the Recycling Advisory Group Scotland</p> <p>Submission from Waste Aware Scotland</p> <p>Submission from the Business Environmental Partnership</p>	<p>ERD/S2/03/07/1a</p> <p><a href="#">ERD/S2/03/07/1b</a></p> <p><a href="#">ERD/S2/03/07/1c</a></p> <p><a href="#">ERD/S2/03/07/1d</a></p>
<p><u>Agenda Item 2</u></p> <p><a href="#">The Animal By-Products (Scotland) Regulations 2003, (SSSI 2003/411)</a> (The relevant EU legislation is available from the Clerk)</p> <p>Extract from the Subordinate Legislation Committee's 6th Report 2003</p>	<p><a href="#">ERD/S2/03/07/2a</a></p> <p><a href="#">ERD/S2/03/07/2b</a></p>

## **Submission from the Recycling Advisory Group Scotland**

### ***Background***

Recycling Advisory Group Scotland (RAGS) was formed in 1993 to promote, inform, research and facilitate the development and understanding of sustainable waste management. RAGS organises events and provides information to a wide range of organisations and individuals as well as carrying out research that benefits members. RAGS currently has 105 member organisations made up of local authorities, private waste management companies, government agencies, community and not-for-profit sector organisations.

Current RAGS projects include:

1. RAGS established the Community Recycling Network for Scotland (CRNS) in 2002 to provide a one-stop-shop for information and support for community organisations involved in recycling, reuse and waste reduction activities in Scotland. The CRNS will also provides a voice for the community recyclers, composters and re-users who are delivering community based solutions to the waste problem and so bringing economic, social and environmental benefit to the community.
2. The Household Hazardous Waste priority waste stream project was conducted to provide baseline data on household hazardous wastes in Scotland. The project was developed and delivered in partnership with RAGS, SEPA and Save Waste and Prosper Ltd. It is hoped that this research will provide a platform to develop strategies for these wastes in Scotland.
3. In conjunction with Communities Scotland, RAGS appointed a Scottish Furniture Projects Co-ordinator. The objective of this post is to establish a national framework for furniture projects to support the Scottish Executive's proposals on the development of furnished tenancies for homeless people and to help deliver local recycling and reuse targets consistent with the emerging local waste strategies.
4. In partnership with Forward Scotland, RAGS have employed a Development Officer to support the Transforming Waste Scotland programme. The post holder is responsible for the development, management and continuing support of community recycling projects within the New Opportunities Fund programme.
5. A Community Waste Officer has been appointed by RAGS, in conjunction with Aberdeenshire Council. The role of the Community Waste Officer is to develop various recycling, reuse and reduction projects at community level which will add value or compliment existing council projects initiatives. The Community Waste Officer acts in liaison with the community and the council's waste management section to identify opportunities for partnership between the two in reference to the delivery of the Aberdeenshire Waste Strategy.

## **Response to Specific Questions raised by the Committee**

### ***Question 1: Does the National Waste Plan provide for suitable methods of reaching the key targets for managing waste?***

The National Waste Plan provides the framework and direction for reaching targets rather than a method statement for achieving targets. The plan outlines the BPEO for managing Scotland's municipal solid wastes and acknowledges the barriers to be overcome in order to meet the targets. The involvement of a large number of stakeholders in developing the plan is one of its key strengths. The plan provides a framework that is a starting point for changing waste management in Scotland.

However, the Plan does not provide sufficient exemplar schemes or best practice guidance and was developed in the absence of such examples or guidance. Greater emphasis must be placed on scrutiny of overall sustainability and ensuring errors of the past are not repeated.

**Question 2: What progress is being made in meeting the targets set out in the Plan?**

It's too early to see significant movement on the targets. However, RAGS has been informed of a number of new initiatives and site infrastructure improvements are already underway that will help towards the targets. Progress may however, be slow given the length of time involved in obtaining funding, planning consents, waste permits and where appropriate contracts between the public, private and community sectors. The new Animal By-Products Regulations (ABPR), due to take effect on the 1st of October 2003, has also provided uncertainty in respect of suitable materials and requirements for composting operations.

During the formation of the Area Waste Plans there were discrepancies and gaps in the baseline data used for setting targets. Measurement and definitions used to classify municipal waste were inconsistent. It is recognised that much work has been undertaken to start to address these issues, however, ensuring collection of data relating to waste management activities in Scotland is vital to establishing progress towards meeting targets. The Waste Data Strategy established by SEPA currently collects some of the information required. However, some of the most important data collected (e.g. regarding local authority waste arisings) is undertaken on a voluntary basis. Consideration should be given to establishing formal requirements for provision and auditing of data and the application of standard definitions for data reporting, this should also be used as the definitive data on wastes management in Scotland.

The Scottish interpretation of Municipal Waste is not the same as that interpreted in England & Wales and is at odds with the EU interpretation that is wider. The forthcoming Waste & Emissions Trading Bill will highlight this problem.

**Question 3: Do funding methods provide the right form of targeted support and incentives? / Is the level and method of funding through the Strategic Waste Fund appropriate to ensure that the Plan is achieved?**

The funding made available by the Scottish Executive is significant and providing it is spent wisely, the funding will go a long way towards achieving the diversion targets for municipal wastes in the National Waste Plan. The Strategic Waste Fund does not cover all wastes and is not accessible for funding the likely impacts of new legislation e.g. Landfill (Scotland) Regulations 2003, End of Life Vehicles (ELV) and Waste Electronic and Electrical Equipment Directives (WEEE).

The focus of Strategic Waste Funding to achieve the 2005/2006 target is resulting in short term planning for the diversion of waste to landfill. RAGS are concerned that longer term strategic planning must also be in place to achieve the longer term targets outlined in both the Area Waste plans and the National waste plan.

**Question 4: Is the Waste Strategy Area approach working appropriately?**

It has delivered, a strategy for wastes management and moved the subject up the political agenda. The division of Scotland into 11 areas has encouraged dialogue at a local level and in most cases is appropriate in relation to collection activities for MSW. However as the materials are processed it is important to recognise that geographic boundaries become less significant and indeed many markets operate at UK or international levels. Both the Area Waste Groups and its members must have a clear role in the longer term to ensure these groups continue to operate.

The Waste Strategy Area Groups have, to date, had a clear role and remit of producing the Area Waste plans and cross sector partnership working. As the pressure for implementation now falls to the individual local authority, there is the risk that the partnership approach along with the ongoing role of the group may break down.

***Question 5: Can adequate markets for waste be developed in order to reduce landfill, and could market development undermine longer-term efforts to minimise waste production?***

In the short term, RAGS is concerned that as numerous landfill sites will close due to the Landfill (Scotland) Regulations 2003, composting and other new technology infrastructure will not be in place and non recycled waste may simply be transported all over Scotland to a fewer number of licensed landfill sites.

However, adequate markets can be developed but this will take time. Market research undertaken by WRAP and Remade has confirmed that there are large potential markets for all recyclable materials and they believe that these markets can be developed successfully. It is very important to recognise the ways in which materials are collected and initially processed has a critical effect on the quality of product and markets for which they can be utilised. In addition the security of the supply of materials is critical in ensuring end markets for recycle.

With more recycle entering the market, prices have dropped and the market may continue to be volatile in future, Budgeting or planning with any certainty on income received therefore is extremely difficult. Recyclate is and will continue to be traded as a world commodity. Landfill tax is already having some impact on the market. When it reaches a level that simply makes recycling economically more attractive then the industry is liable to move in that direction.

The Executive could help to strengthen markets in recyclates by ensuring more procurement by the public sector of secondary materials and products.

***Question 6: Is the Best Practicable Environmental Option being achieved appropriately in practice, with particular reference to the differences between urban and rural areas?***

Too early to say, except in those areas where much of the BPEO was simply an iteration of existing facilities. However the BPEO will change over time, therefore it must be continually monitored. The plan has encouraged the Area Waste Groups to consider the various factors that make up the BPEO and it is understood that the process has taken transport into consideration. In rural areas there is a need for the provision of significant infrastructure and support for existing facilities. If not forthcoming then rural communities are unlikely to benefit from the wider social benefits detailed in the BPEO.

The Strategic Waste Fund appraisal process by the Scottish Executive primarily focuses on “Value for Money” aspects of a bid (essentially an economic appraisal), which seeks to implement a BPEO based on the appraisal of Economic, Social and Environmental criteria. It must be therefore recognised that the options requiring funding may not necessarily be the lowest cost option

***Question 7: What initiatives are developing to improve management of non-municipal waste?***

SEPA have conducted baseline data gathering for some ‘priority waste streams’ this information will help inform the future development of strategies for dealing with non-municipal wastes. In addition, SEPA and other stakeholders (including RAGS) have started the process of developing a framework methodology for dealing with non-MSW streams. However, due to the large quantities and variable nature of these streams, the task should not be underestimated. The evaluation of BPEO solutions however, still needs to be undertaken. It is unfortunate that this work was unable to be conducted in conjunction with the development of the plan for municipal wastes, as there will be some synergies in the treatment of non-municipal wastes. The real challenge with this work will be engaging with and ensuring ‘buy in’ from commercial and industrial waste producers.

WRAP and Remade are also working to develop markets for materials sourced from the non-MSW stream as well as the MSW stream.

***Question 8: Are all stakeholders able to work effectively together, particularly where the Waste Strategy Area covers more than one local authority boundary?***

Local authorities have and continue to work together. Equally the local authority sector has and continues to engage the private sector for the provision of waste services. The community/not for profit sector has not been fully engaged across Scotland with the process. The enterprise companies appear to have less understanding of the magnitude of the strategy and of the potential benefits to business.

There is much that could benefit the waste sector if an open source approach was adopted to tendering, partnership and contract documentation that became a shared resource. This would allow all interested parties to see over the fences and therefore Best Value would be encouraged and good practices disseminated. There should be no barrier to this happening; it is merely an extension of tendering and contracting. It would serve to enhance and protect the Not for Profit sector by allowing them to get access to example partnership and contract documentation, equally local authorities would benefit from shared examples, industry would be encouraged to innovative and efficient.

***Question 9: Is the Waste Strategy Area approach working appropriately? Is the Best Practicable Environmental Option being achieved appropriately in practice, with particular reference to the differences between urban and rural areas?***

At present the level of co-operation varies from excellent to poor. There is more scope for all stakeholders to work together more effectively.

Providing statutory obligations on Area Waste Groups/ Strategy Areas to achieve targets set out in the Area Waste Plan would provide a clear and sustained role for groups.

The National Waste Plan is only eight months old: it is too early to judge whether BPEO is being achieved as new infrastructure has yet to be built.

Greater emphasis must be placed on the exchange and dissemination of good practice and the development of minimum standards and protocols for joint working

***Question 10: What contribution are local and community groups making to meeting the new targets and wider sustainable development objectives?***

Local and community groups have made a valuable contribution to both recycling and wider sustainable development objectives for example, in relation to education, collection activities, encouraging householder participation and furniture / white goods reuse & recycling. However, by all stakeholders working in partnership, this could be enhanced and extended.

Quantifying the contribution of the community sector in the past has been difficult. CRNS are currently undertaking a comprehensive mapping exercise of the community waste sector in Scotland. The overall aim is to produce an accurate picture of the environmental, social inclusion and economic impact the sector is making as a whole and to facilitate the exchange of information and good practice between groups. This will include identifying community recycling projects in each of the 11 Waste Strategy Areas as set out by the National Waste Strategy: Scotland. In addition, the exercise will include visits to over 100 community recycling projects in Scotland to gather detailed information for example on tonnage diverted and number of people employed.

However there is a fear that the lack of robustness of these organisations carries greater risk of failure and therefore alienation of the public should community group schemes fail. There must be a recognition that community groups must perform to the highest standard and equally must be adequately funded to do so.

***Question 11: Are the targets and priority approaches in the Plan appropriate, and do they adequately reflect best practice as well as existing legal obligations?***

The targets are appropriate and that they reflect legal obligations. It is however important to stress that the funding available through the Strategic Waste Fund should enable Scotland to maximise the value of recycling and not just minimise diversion costs. There is a risk that if the implementation relies on low value markets and outlets for mixed waste processing that this will not be sustainable in the longer term.

Targets were largely derived by comparative assessment of delivery mechanisms derived by part quantitative/qualitative approach. However it must be recalled that it is a dynamic process and changes to the targets (if down) should not be viewed as failure.

As stated above the plan should be regarded as work in progress – best practice and legal obligations will change and the plan will need to respond.

***Question 12: Does the Plan take account of likely future EU obligations, and how will it leave Scotland placed to meet the challenge of these new developments?***

The Plan is short on future vision and should be firmer in the promotion of Zero Waste if we are to aspire to a sustainable future and sound Scottish resource economy.

Whilst the National Waste Plan seeks to reflect and implement existing legislation, there remains the risk that future legislative requirements may have significant impacts on the ability to implement Best Practicable Environmental Option and achieve targets.

**Other Comments**

Most importantly, we must have a collective belief that the challenge set is achievable. RAGS believe it is, and will continue to share with others the lessons we learn from our members experience as well as continuing to share knowledge of good practice in waste management – as it develops into resource management

- **Waste Minimisation.** Minimisation is central to the success of changes in waste management and we need legislative action from the Executive to assist this element.
- **Funding.** The current interim Landfill Tax Credit scheme finishes in March 2004 resulting in a significant level of uncertainty within the not-for-profit sector regarding its future in delivering local waste services. The development of guidance by the Scottish Executive for the long-term replacement fund provides an opportunity to ensure the strategic co-ordination and allocation of funding to meet national and local objectives. It is however, essential that the new funding scheme and guidance be published within sufficient time to allow applicable organisations to sustain essential local services to communities and businesses alike.

## **Submission from the Scottish Waste Awareness Group (SWAG)**

SWAG was set up in 2000 with the remit of changing public attitudes to domestic waste. The initiative has cross sector support with representatives from Local Authority Bodies, SEPA, NGO's, Recycling Groups, Consumer Interests, Private Waste Industry, Media Interests and the Scottish Executive on its Steering Group. The Group is chaired by John Summers, Director of Keep Scotland Beautiful. The aim of this Group was to deliver a national campaign called WASTE AWARE SCOTLAND to raise awareness of, and change attitudes and behaviour to reduce, reuse and recycle.

### **1. The Waste Aware Scotland Programme.**

The Waste Aware Scotland programme is endorsed by SEPA, COSLA and the Scottish Executive and is closely linked to the National Waste Plan and the DALCAL campaign. The Waste Aware Scotland campaigning programme is a national campaigning identity deliverable at the local level via the eleven Waste Strategy Area groups and the 32 Local Authorities.

In developing the campaigning programme it was deemed extremely important to assess baseline levels of public attitudes to reduce, reuse and recycle. SWAG conducted over 9,000 face-to-face surveys with members of the public across all 11 waste strategy areas and 32 local authorities. In addition over 40 focus groups were conducted with members of the public across Scotland. This quantitative and qualitative market research helped direct the development of the campaigning programme. This work was undertaken between June 2001 and was finalised with the publication of a National Summary Report, 'Public Attitudes to Reduce, Reuse and Recycle' published in November 2002 (available on request).

The Waste Aware Scotland programme is running campaigns to promote individual waste reduction, reuse and recycling behaviour. These campaigns are matched to real infrastructure, i.e. timely with the implementation of Area Waste Plans and individual Local Authority Integrated Waste Management Plans. This allows the provision of practical optimal solutions and the means for taking action.

The provision of infrastructure must be in place in order to signpost the public to something that they can practically engage in. By providing people with easy to understand information, the individual can make an informed choice, leading to participation and more sustainable personal waste management behaviour. The vast majority of people in Scotland indicated that they would be willing to participate in recycling, in the National Summary Report on public attitudes.

### **2. The Need for Public Awareness and Education**

Historically there has been a lack of integration in delivery messages on waste awareness. Public awareness and understanding of waste reduction and reuse is low and opportunity for public engagement has been limited. Specifically with regard to recycling there is the need to increase public confidence. This can be achieved by:

- informing people what materials can be recycled and linking this to the provision of infrastructure,
- informing people where materials can be recycled,



- informing people why recycling is a worthwhile practise, by explaining what happens to materials after they are collected, where and how they are reprocessed and what is ultimately produced from the materials.

The Waste Aware Scotland programme provides a great opportunity to obtain continuity of approach and standardisation of terminology across Scotland. This will be one of the key elements in realising the aims of the Plan, through building public confidence in the infrastructure, so that investment is maximised.

## **Response to Committee Questions**

### ***Does the National Waste Plan provide for suitable methods of reaching the key targets for managing waste?***

Yes - SWAG welcomes the existence of the National Waste Plan as it forms a framework for managing Scotland's waste. The lack of this framework and inherent funding has been a major deficit over several decades. In the achievement of the plan's targets there will need to be the provision of certain key elements:

- 1) sufficient planning consents for infrastructure provision,
- 2) the timely delivery and allocation of resources from the Strategic Waste Fund, linked into the capacity of the local authority and delivery mechanisms,
- 3) public participation resulting from education and awareness campaigns, because without public commitment the targets will not be met,
- 4) availability of sustainable markets.

### ***What progress is being made in meeting the targets set out in the Plan?***

SWAG is working in partnership at the Area Waste Group and individual Local Authority level to design and help deliver a series of Waste Aware campaigns as detailed in Appendix 1.

Even at this early stage of the plan we are beginning to see outcomes on the ground as we move forward with the Waste Aware Scotland programme to support the infrastructure provision as the Local Authorities gain funding through the Strategic Waste Fund.

Currently 19 Waste Aware campaigns are live.

<b>Waste Strategy Area /Local Authority</b>	<b>Campaigns Written</b>
Aberdeen City	Recycling Point Signage
Aberdeenshire	Kerbside Paper Campaign Caravan Livery
Clackmannanshire	Kerbside Recycling
East Renfrewshire	Pilot Green Waste Kerbside Collection
Edinburgh City	Paper Recycling Competition

Fife	Kerbside Green Waste Campaign Kerbside Paper Campaign Pilot 3 Bin Campaign (Markinch - 1,400 households) Pilot Paper Increased Service (Leslie - 1400 households)
Highland	Pilot Kerbside Collection
North Lanarkshire	Kerbside Collection (paper) Green Waste Kerbside Collection (biobags) Green Waste Kerbside Collection (brown bins) Glass Kerbside Campaign
South Lanarkshire	Pilot 2 Bin Kerbside Collection Scheme Recycling Guide
Stirling	Kerbside Recycling Pilot
West Lothian	3 Bin Kerbside Collection Scheme - Linlithgow

The campaigns are already proving to be successful as exemplified by Fife Council's Kerbside Paper and Green Waste campaigns – Fife Council's recycling rate has increased from 2% in May 2002 to 14.3% in May 2003. Aberdeenshire's Kerbside Paper campaign has also been incredibly successful, showing a 208% increase in recycling.

The delivery of the campaigns are achieved by partnership working including Local Authorities, SEPA, the community sector, private waste industry, other NGO's and a variety of other key stakeholders at national and local level.

***Do funding methods provide the right form of targeted support and incentives?***

***Is the level and method of funding through the Strategic Waste Fund appropriate to ensure that the plan is achieved?***

Yes, in the short-term the Strategic Waste Fund monies are generous but success in meeting the targets set out in the Plan will depend on the delivery of robust infrastructure on time, to allow public participation.

***Is the Waste Strategy Area approach working appropriately?***

The Waste Strategy Area Groups were an effective means to develop the National Waste Plan for Scotland. These groups provided a facilitatory role to allow the key stakeholders to develop in partnership the best practicable environmental option for waste management for that specific waste strategy area and facilitated further partnership working and networking for the various stakeholders. This Waste Strategy Area approach, applied to relevant stakeholders, provides an ideal opportunity to provide a strategy for the future for other waste streams.

***Can adequate markets for waste be developed in order to reduce landfill, and could market development undermine longer-term efforts to minimise waste production?***

Yes, adequate markets for waste can be developed. One of the key challenges will be to ensure that the capacity of the markets matches the ability to collect, store and process materials.

Market development need not undermine efforts to minimise waste. An enhanced public understanding of the concept of waste as a resource achieved through increased recycling behaviour can drive consumer choice towards products that are more resource efficient. This choice for the consumer should be facilitated through fiscal and legal measures aimed at producers, retailers and consumers.

***Is the Best Practicable Environmental Option being achieved appropriately in practice, with particular reference to the differences between urban and rural areas?***

In the Waste Aware Campaigns that are currently live, both urban and rural, a range of infrastructure to support local recycling initiatives is being implemented. Different solutions to suit local needs are being adopted to cater for different housing types and geographical situations.

***What initiatives are developing to improve management of non-municipal waste?***

The focus to date for SWAG has been on municipal solid waste. It is understood that SEPA and other stakeholders are developing strategies for non-municipal waste.

***Are all the stakeholders able to work effectively together, particularly where the Waste Strategy Area covers more than one local authority boundary?***

Inherent in all Waste Aware Campaigns, current and proposed, is partnership working between all stakeholders to deliver the education and awareness messages on the ground. An example of this is the Waste Aware Grampian Campaign proposal to encourage the public to use Recycling Centres and Points across the 3 Local Authorities of Aberdeen City, Aberdeenshire and Moray Councils. Similarly, in the proposed Recycling Centres and Points campaign for all 5 Local Authorities in the Lothian and Borders. It will be essential for the success of the Plan that all stakeholders do work together.

***What contribution are local and community groups making to meeting the new targets and wider sustainable development objectives?***

The community sector has an important role to play in helping to deliver the awareness and education messaging in the Waste Aware Scotland's Campaigns in partnership with Local Authorities and other key stakeholders. A good example of this approach is GRAB in Argyll and Bute who together with Argyll and Bute Council have been delivering an effective educational programme.

***Are the targets and priority approaches in the Plan appropriate, and do they adequately reflect best practice as well as existing legal obligations?***

The targets are appropriate and they adequately reflect current legal obligations. However if it is accepted that the Plan is a framework then there needs to be sufficient flexibility to accommodate future obligations and have mechanisms to deal with this.

The targets are, among other things, linked to public participation. This will only be effective if education and awareness is given sufficiently high priority and supported by all stakeholders. The Waste Aware Scotland Programme provides a mechanism to encourage participation through common messaging and a strategic approach to reduce, reuse and recycle.

***Does the Plan take account of likely future EU obligations, and how will it leave Scotland placed to meet the challenge of these new developments?***

The Plan as currently written does not detail how all future EU obligations are to be addressed. However the mechanisms are in place at strategic level to accommodate the challenges. As yet the infrastructure is not sufficiently developed to provide systems and processes to cater for future demand likely to be generated by:

- WEEE Directive,
- Household Hazardous Waste,
- End of Life Vehicles.

## Appendix I

Waste Strategy Area / Local Authority	Campaign Strategies Developed
<b>Orkney and Shetland</b>	
Orkney	Kerbside Recycling campaign for Kirkwall and Stromness
	Community Reuse and Recycling Centre
	Home and Community Composting campaign
	Recycling Centres campaign
Shetland	Meeting to be arranged
<b>Western Isles</b>	2 Kerbside Recycling pilots in Stornoway
	Kerbside Recycling campaign for Stornoway
	Kerbside Recycling campaign for the rest of Lewis and Harris
	Recycling Points campaign: Lewis, Harris, the Southern Isles.
	Kerbside Recycling campaign for the Uists and Barra.
	Community skips campaign for bulky materials
	Community composting and home composting campaigns
<b>Highland</b>	Pilot Kerbside collection
	Recycling Centres
	2 Bin and a Box Kerbside Campaign
	Recycling Points
	Bulky uplift
	Home Composting
	Trade Waste
	Real Nappy
	Household Hazardous Waste
	Single Use Items
<b>North East (Grampian)</b>	Recycling Centres and Points campaign
Aberdeen City	Recycling Point Signage
Aberdeenshire	Kerbside Paper Campaign
	Caravan Livery
Moray	
<b>Tayside</b>	Recycling Centres and Points campaign
	Waste Prevention Guide
Angus	After Surveys - For Kerbside box for dry recyclates
Dundee City	Green Waste Kerbside campaign
	Kerbside Paper campaign
	Pilot Mixed Dry Recyclates Kerbside campaign
	Bulky Uplift and Reuse Scheme promotions
Perth and Kinross	3 Bin kerbside collection scheme
	Bulky Uplift promotion
	Commercial Waste Scheme
	Dry recyclates collection (2006 - 2010)

	Home Composting
<b>Forth Valley</b>	Home Composting
	Home Composting Guide
Clackmannanshire	Kerbside Recycling
	Recycling Centres and Points
Falkirk	Kerbside Recycling
	High Rise Pilot
	High Rise Phase 2
	Action Recycle promotion
	Bulky Uplift
	Recycling Centres and Points
Stirling	Kerbside Recycling
	Recycling Centres and Points
	Kerbside Recycling Pilot
<b>Fife</b>	Kerbside Green Waste campaign
	Kerbside Paper campaign
	Recycling Centres and Points campaign
	Pilot 3 Bin campaign (Markinch - 1,400 households)
	Pilot Paper Increased Service (Leslie - 1400 households)
	Directional Signage for Recycling Centres
	Contamination stickers
	Schools Recycling Initiative
<b>Lothian and Borders</b>	Recycling Points campaign
East Lothian and Midlothian	Kerbside collection
	Pilot green waste kerbside collection
	Recycling Centres and Points campaign
Edinburgh City	Kerbside paper collection
	Paper recycling competition
Scottish Borders	Green Waste Kerbside
	Dry Recyclates
	Home Composting
	Education facility
West Lothian	3 bin kerbside collection scheme
	3 bin kerbside collection scheme - Linthgow
	Promote the use of Recycling Centres and Points
	Household Incentives scheme
<b>Ayrshire, Dumfries and Galloway</b>	Strategies changing following discussions
Dumfries and Galloway	Kerbside Glass, Plastics and Metals campaign
East Ayrshire	Kerbside Glass and Cans Campaign
North Ayrshire	Kerbside Glass and Paper campaign
	Recycling Centres and Points campaign

	Green Waste Kerbside
South Ayrshire	3 Bin kerbside collection scheme
<b>Glasgow and Clyde Valley</b>	
East Dunbartonshire	Kerbside Collection
	Home Composting
	Website
East Renfrewshire	Kerbside collection
	Pilot green waste kerbside collection
	Recycling Centres campaign
Glasgow	Kerbside bin collection
Inverclyde	Kerbside collection (3 Bin system)
	Recycling Centres and Points campaign
North Lanarkshire	Kerbside Collection (paper)
	Green Waste Kerbside Collection (biobags)
	Green Waste Kerbside Collection (brown bins)
	Glass kerbside campaign
Renfrewshire	Green waste
	Dry recyclates
	Mini Recycling centres for flatted property
	Recycling Centres and Points campaign
South Lanarkshire	2 Bin kerbside collection scheme
	Pilot 2 Bin Kerbside Collection scheme
	Recycling Guide
West Dunbartonshire	3 Bin system
	Home Composting
	Reusable furniture initiative
	Glass kerbside campaign
<b>Argyll and Bute</b>	Kerbside Paper campaign
	Recycling Centres and Points campaign
	2 Bin Kerbside campaign

**Agenda Item 1**

**Environment and Rural  
Development Committee**

1st October 2003  
ERD/S2/03/07/1d

**Submission from the Business Environment Partnership**

The Business Environment Partnership (BEP), was established in 1998 to provide free assistance with environmental management to small to medium sized enterprises (SMEs) in Scotland. The principle aim of our projects is to make the Scottish economy more competitive by allowing local companies to realise cost savings, reduce risk and improve competitiveness by implementing recommendations aimed at improving their environmental performance.

The BEP is a wholly funded partnership of over 40 public and private sector organisations, including the national environmental regulators, the Scottish Executive, the national enterprise network, local authorities, the water authority, and several private companies. The BEP run four projects aimed at improving the competitiveness of the Scottish economy through improved environmental management;

- The Waste Minimisation and Environmental Management Initiative: Providing free assistance to companies wishing to benefit from waste minimisation / energy efficiency / improved water and effluent management / environmental policy etc.
- The Environmental Placement Programme: Placing undergraduate students into companies for 8 weeks at a time to provide the resource to implement our recommendations
- ISO14001 Programme: Assisting companies to achieve the internationally recognised Environmental Management System standard (ISO14001)
- Success & Sustainability: Assisting companies to develop and implement sustainability action plans aimed at promoting a more sustainable pattern of development

To date, the BEP has helped more than 620 companies identify cost savings of over £5,200,000. Many of the cost savings identified are cumulative, and so the total savings realised will greatly exceed this amount. The Environmental Placement Programme has provided opportunities for 290 students to work on environmental projects with business. The BEP has assisted 37 companies to achieve accreditation to the Environmental Management Standard ISO14001.



## Written submission

The BEP do support the principle aims of the National Waste Plan for Scotland as a tool to guide improved resource efficiency and waste management throughout Scotland. However, the BEP recognise that the Plan has a strong focus on Municipal Solid Waste. Consequently priority actions and targets reflect these aims. As a business focused organisation, the BEP are concerned that, due to the focus on MSW:

- The potential for SMEs and community organisations to make a valuable contribution to more sustainable resource use and waste management may be underestimated when solutions are developed;
  - Business opportunities to develop services and products from recycled materials, which will help meet these targets may be lost to the Scottish economy;
  - There will be less support available to encourage businesses to reduce their waste and segregate recyclable materials from the waste stream
- **Do Funding methods provide the right form of targeted support and incentives?**
  - **Is the level and method of funding through SWF appropriate to ensure the plan is achieved?**

In order to engage participation of all sectors and achieve the waste management targets set, the Plan will require additional support mechanisms such as financial incentives. It is recognised that some funding is available from sources including the Strategic Waste Fund, which is being directed by Local Authorities towards services which deal mainly with domestic MSW such as household collection schemes. However, in order to achieve sustainable waste management solutions, support will be required at each key stage in the waste minimisation and recycling chain for all sectors including, domestic, business and community groups – from education of waste producers, to collection and reprocessing of recycle materials, to product and market development.

The main incentive for businesses to reduce their waste is increased profitability and legislative compliance although many businesses are unaware of the true cost of their waste (typically 4.5% of their turnover) and the significant opportunities to improve competitiveness through waste minimisation, the use of recycled materials in their activities and the development of new products.

Various initiatives exist throughout Scotland to support and advise businesses on waste minimisation opportunities to enhance their activities which will also ultimately contribute a valuable role in delivering the Plan's overall targets. It is felt that specific funding for waste minimisation initiatives which provide advice and assistance is lacking, particularly with recent changes in funding from the Landfill Tax Credit Scheme and it is suggested that a proportion of the Strategic Waste Fund is dedicated to this type of service.

- **Is the Waste Strategy Area approach working appropriately?**

The 11 Waste Strategy Areas provide an effective means of breaking Scotland into manageable areas although the selection of stakeholders and their role on Area Waste Plan groups may require clarification. It is recognised however, that flexibility is required to take account of cross regional waste management issues and to enable interaction of services and activities between neighbouring areas.

- **Can adequate markets for waste be developed in order to reduce landfill, and could market development undermine longer-term efforts to minimise waste production?**

### **Infrastructure**

In order to develop adequate markets, dedicated infrastructure for the collection, segregation, transport and reprocessing of waste must be improved. Whilst many sectors can see the benefits of segregating and recycling their waste, a number of barriers are encountered – particularly by small businesses such as: a lack of locally-specific information on what can and cannot be recycled, available facilities and services and legislative restrictions.

### **Development of products**

Opportunities are being grasped by businesses across Scotland to develop products which make use of recycled materials. With current consumer behaviour and the relatively cheap cost of waste disposal, many of these products will find it difficult to compete with products created from virgin materials. The suitability of materials to be recycled and used for various purposes will inevitably be dependant on the quantity and quality of materials collected and so will be dictated by the awareness and participation of the individual waste producer. In order to compete with existing products from virgin materials it is therefore critical that support is given to these emerging niche businesses, until such a time when the supply, quality and demand for recycled materials is such that it can compete with traditional materials.

The BEP has worked with several small companies developing novel products using recycled materials. These include the use of crushed glass as a water filtration media and the use of recycled plastics to make innovative containers for tree propagation. Both of these companies have global markets and offer significant opportunities to develop markets for recycled materials. However, both have encountered difficulties securing funding, securing sources of materials and securing markets due to the current complexities of the market place.

### **Stimulation of markets**

A number of initiatives including the Waste Resource Action Programme (WRAP) and Remade Scotland have been developed to stimulate markets for recycled materials and are making a significant contribution to this need. It is recognised that the securing of new markets for recycled products is dependent on the increased awareness and interest of the consumer and therefore will require to be developed alongside waste awareness-raising initiatives for all sectors.

- **What initiatives are developing to improve management of non-municipal waste?**

As part of the Plan, the characteristics and options for managing specific Non-MSW waste streams are now being reviewed by SEPA. Therefore, it was difficult to include these waste streams in the overall targets set and in funding bids made to the SWF, despite many of these wastes being of the same nature as those included under the term MSW. There is some concern therefore that the scale of infrastructure being put in place in some areas will be insufficient for the later inclusion of Non-MSW.

Sector-specific support guides are available for businesses from the UK-wide Government Programme, Envirowise and general waste minimisation guides are being developed by both SEPA and the Federation for Small Business (in association with the BEP and Scottish Energy Efficiency Office). These are intended to act as a starting point for many producers of Non-MSW who choose to consider waste minimisation although commonly, a lack of available time and resources, particularly in the case of SMEs prevents many businesses from considering waste issues unless they can access external assistance.

A number of waste minimisation projects have developed throughout Scotland, including the BEP and the North East Scotland Business Waste Management Partnership (NESBWMP) to assist businesses to manage their waste (essentially Non-MSW) and realise the financial, social and environmental benefits of waste minimisation. These projects play a key role in Scotland in reducing the tonnage of waste being generated each year and diverting tonnage of waste from landfill to reuse, recycling or generation of energy. Since April 2002 the BEP has assisted companies to reduce/divert over 5,300 tonnes of waste. Additional benefits to Scottish Businesses of understanding and implementing waste minimisation opportunities include cost savings, improved competitiveness, safeguarding of jobs (e.g. Since April 2002 the BEP has assisted in the creation of 31 new jobs-10 paid and 21 voluntary), creation of new sales and development of new market opportunities.

As previously mentioned, such support organisations have traditionally been supported by external funding and face increasing challenges to continue this support through a lack of funding available.

- **What contribution are local and community groups making to meeting the new targets and wider sustainable development objectives?**

Local initiatives and community groups have an important contribution to make in implementing the Plan. Whilst the tonnage's diverted from landfill may be limited, the increased awareness of waste management issues and the clear social benefits in terms of employment and community engagement are substantial. In addition to funding, community projects require support, advice and encouragement from the public and private sectors. Significant opportunities exist for community groups and 'social firms' to be established to collect and manage business waste.

The BEP have worked with several community groups to develop projects which divert waste items from the waste stream through reuse, repair and recycling. These include the collection of household green waste for recycling, the repair and reuse of furniture and the recycling of wooden pallets as compost boxes. These initiatives have successfully engaged members of the public and private sector to participate in and support the concept of waste minimisation, create both paid and volunteer work opportunities and have diverted significant tonnages of wastes from landfill.

- **Are the targets and priority approaches in the plan appropriate and do they adequately reflect best practice as well as existing legal obligations?**

As the work to review various types of Non-MSW is still ongoing, the targets and priority approaches in the plan cannot fully account for these wastes types. The targets are considered to reflect current legal obligations and best practice although should continue to be monitored to ensure they continue to reflect this in the light of future changes in the type and volume of waste production and for the inclusion of non-MSW.

**SUBORDINATE LEGISLATION COMMITTEE**  
**Extracts of 6<sup>th</sup> Report, 2003**

1. At its meeting on 23<sup>rd</sup> September the Committee determined that it did not need to draw the attention of the Parliament to the instruments listed in the Annexe to this report on any of the grounds in its remit.
2. The report is also addressed to the following committee as the lead committee for the instrument specified:

Environment and Rural Development      SSI 2003/411

## **Instruments subject to annulment**

The Animal By-Products (Scotland) Regulations 2003 (SSI 2003/411)

### *Background*

The Committee raised four points on these Regulations.

### *Question 1*

1. The Committee noted that regulation 32 provides “any record required to be kept under these Regulations shall be kept for at least two years”. However, although a number of provisions of the Regulations relate to the keeping of records, regulations 35, 36, 37 and 38 on pages 13 and 14 require records to be made but not “kept”. As regulation 32 does not include a specific sanction for breach of its requirements, the Executive was asked to clarify how it is to be enforced.

### *Answer 1*

2. In relation to the Committee’s first question concerning records, regulations 33 and 34 create offences of failing to comply with Article 9(1) of Regulation (EC) 1774/2002 and Article 9 of Regulation (EC) 811/2003 respectively. Both of these Articles as implemented by reference here expressly require records to be “kept” for certain purposes.

3. In relation to regulations 35 to 39, whilst the word “kept” is not used, the Executive consider it to be inherent in the nature of any record that it must be kept or otherwise retained for a period of time. The records which are required to be created by regulations 35 to 39 are records “required to be kept under these Regulations” in terms of the wording of the duty extended by regulation 32.

4. Regulation 32 therefore imposes a duty in relation to each of the other records requirements in the Regulations. Whilst, as the Committee notes, no specific sanction attaches to the duty created by regulation 32, regulation 47(1)(d) makes it an offence to fail to produce a record when required to do so by any person acting in the execution of the Regulations, and this allows the enforcement of the duty created by regulation 32, which makes it clear that the records must be retained for two years. The Executive’s response is reproduced at Appendix 3.

### *Report 1*

5. The Committee notes that the Executive itself acknowledges that the Regulations use the words “make” and “keep” in relation to records, that these are not the same and that regulation 32 uses the phrase “required to be kept”. It would appear, therefore, that, referring only to records that are required to be kept by the regulations regulation 32 is, at the very least, defectively drafted and moreover positively misleading. What, it seems to the Committee, should have been said is that “any record required to be made or kept” should be kept for two years.

6. The Committee also notes that the obligation is expressed in the passive form which is considered to be bad drafting practice as it is then unclear on whom the duty falls. However, as there is no direct sanction for breach of this Regulation the point is perhaps less important than it would otherwise have been.

7. **The Committee draws regulation 32 of the instrument to the attention of the lead committee and the Parliament on the ground that it is defectively drafted in the above respect.**

8. The Committee notes the information supplied on the enforcement of regulation 32.

*Question 2*

9. The Committee observed that the Regulations do not appear to provide for when the record is to be made and therefore sought clarification as to how these provisions are to be enforced and from which date the retention period is to commence.

*Answer 2*

10. The retention period for the scope of the duty to record in each case begins when the duty to record arises. The beginning of the period therefore depends on the detail of each regulation upon which regulation 32 is contingent. Failure to produce a record of the event which gives rise to the duty to record within the two year period is then an offence enforceable by regulation 47(1)(d).

11. Under each of these provision, an event triggers the duty to record, when animal by-products are consigned, transported or received (regulation 33), when such by-products are burned or buried (regulation 34), "on disposal or use" (regulation 35), when catering waste is received (regulation 36) and when catering waste or other animal by-products are treated (regulation 37) subject to the fact that under regulation 37(d) the results of checks carried out will only become available, and the duty will only arise then. This consideration may also apply to information provided to satisfy regulation 37(e). For regulation 38(a) to (e) it is clear that the duty arises when a sample arrives at the laboratory, while under regulation 38(f) the duty will only arise when the information becomes available on testing. For regulation 39, the duty to record arises when compost or digestion residue is brought on to the premises (paragraphs (a) and (b)), when that compost or residue is applied to land (paragraphs (c) and (d)), or when access to land by the relevant animals is allowed (paragraph (e)).

*Report 2*

12. The Committee observes that this appears to be a common problem with record-keeping requirements. In some cases, the Regulations and the Community legislation that they implement clearly indicate the date when records are to be made as, for example, regulation 35 (1) on page 13 of the Regulations as cited by the Executive. There is, therefore, no doubt in such cases as to when the obligation arises.

13. As, ultimately, breaches of the Regulations may attract criminal sanctions it is vital that relevant obligations are drafted clearly and with precision so that the person who is to comply with them is identified and that person can know the exact nature of the obligations. Where periods of time are specified it is obvious that either a start or an end point must be indicated otherwise the provision has no meaning. **The Regulations are therefore defectively drafted to this extent and the Committee**

**draws the attention of the lead committee and the Parliament to them for that reason.**

*Question 3*

14. The Executive was asked to confirm whether it is the intention that obstruction offences under regulation 47 should be triable either way as it would be more usual for such offences to be triable only summarily and subject to a maximum penalty of level 3 on the standard scale.

*Answer 3*

15. In relation to the Committee's third question, concerning offences of obstruction, the Executive can confirm its intention that obstruction offences under regulation 47 should be triable either summarily or on indictment. While in some cases obstruction offences are triable only summarily and subject to a maximum penalty of level 3 on the standard scale, the possibility of proceeding on indictment is consistent with other Regulations concerning similar subject matter, for instance the TSE (Scotland) Regulations 2002 (S.S.I. 2002/255). Effective enforcement provisions are important in the context of these control measures for the protection of public and animal health through the prevention of the spread of disease.

*Report 3*

16. The Committee did note the maximum penalty for the obstruction offence in the TSE Regulations which seemed to be out of line with usual practice. This does not alter the fact that, irrespective of the subject matter, simple obstruction has not been regarded as an offence that justified the same maximum penalty as a substantive offence against the Regulations. This is not to detract from the serious matters that the Regulations are designed to regulate, rather it is a question of proportionality.

**17. In any event, however unusual the provision, it is really a matter of policy for the lead committee and the Committee therefore simply draws the Executive's response to the attention of that committee and the Parliament to consider further as they see fit.**

18. In practice, it seems very unlikely that any procurator fiscal would choose to proceed on indictment for a simple obstruction offence and whatever the maximum penalty provided for in the legislation (on indictment an unlimited fine and/or 6 months imprisonment) any fine actually imposed will be proportionate to that offence and well short of that maximum.

*Question 4*

19. The Committee considered that a transposition note would have been helpful in this instance and asks why this has not been provided.

*Answer 4*

20. In relation to the production of a transposition note, Executive policy is to provide a transposition note or table where this would be particularly helpful in relation to the transposition of Community instruments. Unlike Directives however, which generally require transposition by writing out implementing provisions, Regulation (EC) 1774/2002 (as read with the other EC Regulations and transitional Decisions implemented), contains detailed provisions which are directly applicable in

Scotland, but for which enforcement measures required to be put in place to fully implement the EC legislation. The purpose of this instrument is to create these enforcement measures. In doing so, it does not transpose the Community measures into Scots Law. While there are various EC transitional provisions and derogations which are implemented by the Regulations, these provisions and derogations are referred to in the body of the Regulations. Consequently, the Executive considers that production of a transposition note would not be necessary in this case.

*Report 4*

21. Whilst the Committee is familiar with the difference between EC Regulations and Directives, it remains the case that some Regulations are more akin to Directives and require considerable fleshing out (the Milk Quotas legislation, for example) and vice versa. In the Committee's view, the need for a Transposition Note will depend not so much on the form that is taken by the EC legislation but on the contents of that legislation.

22. In the present case, whilst the Executive's expertise in the field covered by the legislation may allow it to follow the transposition, this is not always an advantage shared by the Committee and a Transposition Note would have proved particularly helpful for that reason as well as in view of the time constraints that apply to the Committee's scrutiny.

**23. The Committee draws the attention of the lead committee and the Parliament to the Executive's response, noting that the Executive is now giving active consideration to the production of such notes in the future.**



## Appendix 3

### THE ANIMAL BY-PRODUCTS (SCOTLAND) REGULATIONS 2003 (SSI 2003/411)

#### On 16th September 2003 the Committee asked:

1. The Subordinate Legislation Committee today considered the above instrument and requests an explanation of the following matters.
2. The Committee notes that regulation 32 provides “any record required to be kept under these Regulations shall be kept for at least two years”. However, although a number of provisions of the Regulations relate to the keeping of records, regulations 35, 36, 37 and 38 on pages 13 and 14 require records to be made but not “kept”. As regulation 32 does not include a specific sanction for breach of its requirements, the Executive is asked to clarify how it is to be enforced.
3. The Committee observes that the Regulations do not appear to provide when the record is to be made and therefore seeks clarification as to how these provisions are to be enforced and from which date the retention period is to commence.
4. The Executive is asked to confirm whether it is the intention that obstruction offences under regulation 47 should be triable either way as it would be more usual for such offences to be triable only summarily and subject to a maximum penalty of level 3 on the standard scale.
5. The Committee is of the opinion that a transposition note would have been helpful in this instance and asks why this has not been provided.

#### The Scottish Executive Environment and Rural Affairs Department responds as follows:

1. In relation to the Committee’s first question concerning records, regulations 33 and 34 create offences of failing to comply with Article 9(1) of Regulation (EC) 1774/2002 and Article 9 of Regulation (EC) 811/2003 respectively. Both of these Articles as implemented by reference here expressly require records to be “kept” for certain purposes. In relation to regulations 35 to 39, while the word “kept” is not used, the Executive consider it to be inherent in the nature of any record that it must be kept or otherwise retained for a period of time. The records which are required to be created by regulations 35 to 39 are records “required to be kept under these Regulations” in terms of the wording of the duty extended by regulation 32.

Regulation 32 therefore imposes a duty in relation to each of the other records requirements in the Regulations. While, as the Committee notes, no specific sanction attaches to the duty created by regulation 32, regulation 47(1)(d) makes it an offence to fail to produce a record when required to do so by any person acting in the execution of the Regulations, and this allows the enforcement of the duty created by regulation 32, which makes it clear that the records must be retained for 2 years.

2. On the Committee's second question concerning records, the retention period for the scope of the duty to record in each case begins when the duty to record arises. The beginning of the period therefore depends on the detail of each regulation upon which regulation 32 is contingent. Failure to produce a record of the event which gives rise to the duty to record within the two year period is then an offence enforceable by regulation 47(1)(d).

Under each of these provision, an event triggers the duty to record, when animal by-products are consigned, transported or received (regulation 33), when such by-products are burned or buried (regulation 34), "on disposal or use" (regulation 35), when catering waste is received (regulation 36) and when catering waste or other animal by-products are treated (regulation 37) subject to the fact that under regulation 37(d) the results of checks carried out will only become available, and the duty will only arise then. This consideration may also apply to information provided to satisfy regulation 37(e). For regulation 38(a) to (e) it is clear that the duty arises when a sample arrives at the laboratory, while under regulation 38(f) the duty will only arise when the information becomes available on testing. For regulation 39, the duty to record arises when compost or digestion residue is brought on to the premises (paragraphs (a) and (b)), when that compost or residue is applied to land (paragraphs (c) and (d)), or when access to land by the relevant animals is allowed (paragraph (e)).

3. In relation to the Committee's third question, concerning offences of obstruction, the Executive can confirm its intention that obstruction offences under regulation 47 should be triable either summarily or on indictment. While in some cases obstruction offences are triable only summarily and subject to a maximum penalty of level 3 on the standard scale, the possibility of proceeding on indictment is consistent with other Regulations concerning similar subject-matter, for instance the TSE (Scotland) Regulations 2002 (S.S.I. 2002/255). Effective enforcement provisions are important in the context of these control measures for the protection of public and animal health through the prevention of the spread of disease.

4. In relation to the Committee's fourth question, concerning the production of a transposition note, Executive policy is to provide a transposition note or table where this would be particularly helpful in relation to the transposition of Community instruments. Unlike Directives however, which generally require transposition by writing out implementing provisions, Regulation (EC) 1774/2002 (as read with the other EC Regulations and transitional Decisions implemented), contains detailed provisions which are directly applicable in Scotland, but for which enforcement measures required to be put in place to fully implement the EC legislation. The purpose of this instrument is to create these enforcement measures. In doing so, it does not transpose the Community measures into Scots Law. While there are various EC transitional provisions and derogations which are implemented by the Regulations, these provisions and derogations are referred to in the body of the Regulations. Consequently the Executive considers that production of a transposition note would not be necessary in this case.

**Scottish Executive Environment and Rural Affairs Department**

18th September 2003